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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,472	08/01/2001	Traci Cravaack	200.001	5623

7590

08/28/2002

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EXAMINER

HALE, GLORIA M

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/920,472

Applicant(s)

Cravaack et al

Examiner

Gloria Hale

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 1-5 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Penny (6,004,186).

In regard to claims 1,2 and 9 Penny discloses a bra comprising an elastic strap (12, see Penny col. 4, lines 39-49) with slits (14, see penny, col. 8, lines 37-54 and figures 10-13) wherein the slits 14 cover the suction device as claimed. (See Penny, col. 8, lines 48-54). Penny discloses the neck strap (16) structured and located as claimed in claims 3,4,10 and 11. (See Penny , col. 7, lines 25-58; col. 7, line 1- col. 8, line 36 and figures 10-13). Penny discloses the closures as claimed in claims 5 and 12. (See Penny, col. 4, line 39- col. 6, line 5).

3. Claims 15 and 18-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Mendoza(6,227,936).

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In regard to claims 15 and 18-20, Mendoza discloses a bra (50) with a front panel (52), middle panel (70) with slits (76), rear panel (57) which function as claimed. (See Figure 3, col. 4, line 1-col. 5, line 40).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mendoza (6,227,936).

In regard to claims 16 and 17 Mendoza discloses the invention substantially as claimed. However, Mendoza does not specifically disclose the fasteners as being hooks and eyes. The fasteners of Mendoza are snaps. The Examiner takes Official Notice that it is well known to substitute various fasteners for each other as desired to achieve a desired aesthetic effect or better securement provided by each type of fastener. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the fasteners of Mendoza to substitute the snaps with a hook and eye fastener to achieve a better level of securement.

6. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Penny (6,004,186).

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In regard to claims 6 and 13 Penny discloses the invention substantially as claimed. However, Penny does not specifically disclose the closure as being in the center of the front panel. The Examiner takes Official Notice that front closure bras are well known in the marketplace in order to provide the wearer with easy access and also for ease in donning and doffing the bra.

Accordingly it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the bra of Penny to place the opening in the front of the bra for ease in donning and doffing or ease in access to the breasts of the wearer.

7. Claims 7, 8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Penny (6,004,186) in view of Lockridge et al (5,575,768).

In regard to claims 7, 8 and 14, Penny discloses the invention substantially as claimed. However, Penny and Lockridge et al do not specifically disclose the privacy flaps attached above the slits as claimed. Lockridge et al discloses a bra with privacy flaps (28) attached as claimed in order to cover the slits from view. (See Lockridge et al, figure 4; col. 3, line 23 - 32). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the bra of Penny to include the flaps of Lockridge et al to cover the slits from view.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references disclose bras with suction device openings and flaps for placement there over.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is (703) 308-1282.


Gloria Hale

Primary Patent Examiner- AU 3765

August 24, 2002